

securities law requirements and assures the public availability of such information. Form F-7 takes approximately 4 hours per response to prepare and is filed by approximately 3 respondents. We estimate that 25% of 4 hours per response (one hour) is prepared by the company for a total annual reporting burden of 3 hours (1 hour per response × 3 responses).

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by October 3, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: July 29, 2022.

**J. Matthew DeLesDernier,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95393; File No. SR-ISE-2022-13]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Order Granting Approval of a Proposed Rule Change To Permit the Listing and Trading of P.M.-Settled Nasdaq-100 Index Options That Expire on Tuesday or Thursday Under Its Nonstandard Expirations Pilot Program

July 29, 2022.

#### I. Introduction

On June 1, 2022, Nasdaq ISE, LLC ("ISE" or the Exchange") filed with the Securities and Exchange Commission

("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to add P.M.-settled Nasdaq-100 Index ("NDX") options that expire on Tuesday or Thursday to the Exchange's Nonstandard Expirations Pilot Program ("Pilot Program"). The proposed rule change was published for comment in the **Federal Register** on June 21, 2022.<sup>3</sup> No comments were received. The Commission is approving the proposed rule change.

#### II. Description of the Proposal

The Exchange proposes to amend Supplementary Material .07 to Options 4A, Section 12, which governs its Pilot Program, to permit P.M.-settled Nasdaq-100 Index ("NDXP") options that expire on Tuesday or Thursday. Under the existing Pilot Program, the Exchange is permitted to list P.M.-settled options on broad-based indexes that expire on: (1) any Monday, Wednesday, or Friday ("Weekly Expirations") and (2) the last trading day of the month ("End of Month Expirations" or "EOMs").<sup>4</sup>

Specifically, the proposed rule change amends Supplementary Material .07(a) Options 4A, Section 12 to add NDXP options (P.M.-settled) that expire on Tuesday or Thursday ("Tuesday and Thursday NDXP Expirations") as permissible Weekly Expirations under the Pilot Program (currently set to expire on November 4, 2022).<sup>5</sup> The Exchange notes that permitting Tuesday and Thursday NDXP Expirations, as proposed, is in addition to the NDXP options with Monday, Wednesday and Friday expirations that the Exchange may (and does) already list pursuant to Supplementary Material .07(a) to Options 4A, Section 12.<sup>6</sup> The Pilot Program for Weekly Expirations will apply to Tuesday and Thursday NDXP Expirations in the same manner as it currently applies to P.M.-settled broad-based index options with Monday, Wednesday and Friday expirations.<sup>7</sup> As proposed, Supplementary Material .07(a) to Options 4A, Section 12 provides that the Exchange may open for trading Weekly Expirations on NDX options to expire on any Tuesday or Thursday (other than days that coincide

with the third Friday-of-the-month or an EOM expiration).<sup>8</sup>

The proposed weekly Tuesday and Thursday NDXP Expirations will be subject to all provisions of Supplementary Material .07(a) to Options 4A, Section 12 in the same manner as existing Monday, Wednesday, and Friday expirations.<sup>9</sup> The maximum number of expirations that may be listed for each Weekly Expiration (*i.e.*, a Monday expiration, Tuesday expiration, Wednesday expiration, Thursday expiration, or Friday expiration, as applicable) in a given class is the same as the maximum number of expirations permitted in Options 4A, Section 12(a)(3) for standard options on the same broad-based index (which is 12 for NDXP options).<sup>10</sup> Further, other expirations in the same class are not counted as part of the maximum number of Weekly Expirations for an applicable broad-based index class.<sup>11</sup> Weekly Expirations need not be for consecutive Monday, Tuesday, Wednesday, Thursday, or Friday expirations as applicable; however, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively.<sup>12</sup> Weekly Expirations that are initially listed in a given class may expire up to four weeks from the actual listing date.<sup>13</sup> Additionally, the Tuesday and Thursday NDXP Expirations will be treated the same as options on the same underlying index that expire on the third Friday of the expiration month, except that they will be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration.<sup>14</sup>

If the Exchange is not open for business on a Tuesday or Thursday, the normally Tuesday- or Thursday-expiring NDXP options will expire on the previous business day.<sup>15</sup> The proposed rule change also adds that, if two different Weekly Expirations on NDX would expire on the same day because the Exchange is not open for business on a certain weekday, the Exchange will list only one of such

<sup>8</sup> See *id.*

<sup>9</sup> See *id.*

<sup>10</sup> See proposed Supplementary Material .07(a) to Options 4A, Section 12. See also Notice, *supra* note 3, at 36895.

<sup>11</sup> See proposed Supplementary Material .07(a) to Options 4A, Section 12.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See also Notice, *supra* note 3, at 36894.

<sup>15</sup> See *id.* at 36895.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 95101 (June 14, 2022), 87 FR 36894 ("Notice").

<sup>4</sup> See Supplementary Material .07 to Options 4A, Section 12.

<sup>5</sup> See Notice, *supra* note 3, at 36894.

<sup>6</sup> See *id.*

<sup>7</sup> See *id.*

Weekly Expirations.<sup>16</sup> Transactions in Weekly Expirations may be effected on the Exchange between the hours of 9:30 a.m. (Eastern Time) and 4:15 p.m. (Eastern Time), except that on the last trading day, transactions in expiring Weekly Expirations may be effected on the Exchange between the hours of 9:30 a.m. (Eastern time) and 4:00 p.m. (Eastern time).<sup>17</sup>

#### Pilot Report

The Exchange proposes to abide by the same reporting requirements for the trading of Tuesday and Thursday NDXP Expirations that it does for the trading of P.M.-settled options on broad-based indexes that expire on any Monday, Wednesday, or Friday pursuant to the Pilot Program.<sup>18</sup> The Exchange represented that it will continue to provide the Commission with ongoing data regarding Tuesday and Thursday NDXP Expirations unless and until the Nonstandard Pilot is made permanent or discontinued.<sup>19</sup> As provided in the Pilot Program Approval Order,<sup>20</sup> the annual report will contain an analysis of volume, open interest and trading patterns. In addition, for series that exceed certain minimum open interest parameters, the annual report will provide analysis of index price volatility and, if needed, share trading activity.<sup>21</sup> Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the Pilot Program, including Tuesday and Thursday NDXP Expirations as proposed, is consistent with the Exchange Act.<sup>22</sup> As it does for current Pilot Program products, the Exchange will make public on its website all data and analyses in connection with Tuesday and Thursday NDXP Expirations it submits to the Commission under the Pilot Program.<sup>23</sup> Going forward, the Exchange states that it will include the same areas of analysis for Tuesday and Thursday NDXP Expirations.<sup>24</sup> The Exchange also

proposes to include the following market quality data, over sample periods determined by the Exchange and the Commission, for NDXP options (NDXP and standard NDX options) as part of the annual reports going forward: (1) time-weighted relative quoted spreads; (2) relative effective spreads; and (3) time-weighted bid and offer sizes.<sup>25</sup>

#### Implementation

The Exchange proposes to implement this rule change on or before August 1, 2022. The Exchange will issue an Options Trader Alert to notify members and member organizations of the implementation date.<sup>26</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.<sup>27</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>28</sup> which requires, among other things, that a national securities exchange have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As the Commission noted in its recent order approving the listing and trading of P.M.-settled options on the S&P 500 Index that expire on Tuesday or Thursday, the Commission has had concerns about the potential adverse effects and impact of P.M. settlement upon market volatility and the operation of fair and orderly markets on the underlying cash markets at or near the close of trading, including for cash-settled derivatives contracts based on a broad-based index.<sup>29</sup> The potential

impact today remains unclear, given the significant changes in the closing procedures of the primary markets in recent decades. The Commission is mindful of the historical experience with the impact of P.M. settlement of cash-settled index derivatives on the underlying cash markets, but recognizes that these risks may be mitigated today by the enhanced closing procedures that are now in use at the primary equity markets.

The Exchange's proposal to add Tuesday and Thursday NDXP Expirations to the existing Pilot Program would offer additional investment options to investors and may be useful for their investment or hedging objectives while providing the Commission with data to monitor the effects of Tuesday and Thursday NDXP Expirations and the impact of P.M. settlement on the markets. To assist the Commission in assessing any potential impact of Tuesday and Thursday NDXP Expirations on the options markets as well as the underlying cash equities markets, the Exchange will be required to submit data to the Commission in connection with the Pilot Program.<sup>30</sup> Further, including the proposed Tuesday and Thursday NDXP Expirations in the Pilot Program, together with the data and analysis that the Exchange will provide to the Commission, will allow the Exchange and the Commission to monitor for and assess any potential for adverse market effects of allowing Tuesday and Thursday NDXP Expirations, including on the underlying component stocks. In particular, the data collected from the Pilot Program will help inform the Commission's consideration of whether the Pilot Program, as amended to include Tuesday and Thursday NDXP Expirations, should be modified, discontinued, extended, or permanently approved. Furthermore, the Exchange's ongoing analysis of the Pilot Program should help it monitor any potential risks from large P.M.-settled positions and take appropriate action if warranted.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>31</sup> that the proposed rule change (SR-ISE-2022-13), be, and hereby is, approved.

<sup>16</sup> See *id.* The Exchange believes it is appropriate to clarify in the rule text that the Exchange will list just one Weekly Expiration in such a case, as the two Weekly Expirations would essentially be the same options contract. *Id.*

<sup>17</sup> See *id.*

<sup>18</sup> See *id.*

<sup>19</sup> See *id.*

<sup>20</sup> See Securities Exchange Act Release No. 82612 (February 1, 2018), 83 FR 5470 (February 7, 2018) (approving SR-ISE-2017-111) (Order Approving a Proposed Rule Change To Establish a Nonstandard Expirations Pilot Program).

<sup>21</sup> See Notice, *supra* note 3, at 36895.

<sup>22</sup> See *id.*

<sup>23</sup> See *id.*

<sup>24</sup> See *id.*

<sup>25</sup> See *id.* at 36895-96.

<sup>26</sup> See *id.* at 36896.

<sup>27</sup> 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>28</sup> 15 U.S.C. 78f(b)(5).

<sup>29</sup> See Securities Exchange Act Release No. 94682 (April 12, 2022), 87 FR 22993 (April 18, 2022) (CBOE-2022-005).

<sup>30</sup> See Notice, *supra* note 3, at 36895-96.

<sup>31</sup> 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2022-16660 Filed 8-3-22; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95394; File No. SR-ICEEU-2022-014]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to the ICE Clear Europe Outsourcing Policy

July 29, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 19, 2022, ICE Clear Europe Limited filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) is submitting its Outsourcing Policy (“Outsourcing Policy” or “Policy”), which would set out in a consolidated document how the Clearing House manages outsourcing arrangements with third party providers and affiliates of the Clearing House, as well as how the ICE Clear Europe Board maintains oversight of its outsourcing arrangements. A copy of the proposed Outsourcing Policy is set forth in Exhibit 5[sic].<sup>3</sup>

#### II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

#### (A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### (a) Purpose

ICE Clear Europe is submitting its Outsourcing Policy which would describe, in a consolidated document, the Clearing House’s procedures for management of its outsourcing arrangements. The Outsourcing Policy would complement the existing ICE Clear Europe Vendor Management Policy (“VMP”), which describes certain group-wide policies of the Clearing House’s ultimate parent, Intercontinental Exchange, Inc., with respect to its outsourcing arrangements with third parties. The Outsourcing Policy also references ICE Clear Europe’s Outsourcing Operating Manual (“OOM”), which sets out additional details concerning the steps it follows in order to introduce, amend and/or maintain outsourcing arrangements.

The purpose of the Outsourcing Policy would be to set out, in a consolidated document, how the Clearing House manages its outsourcing arrangements, both with third party providers and its affiliates, and how the Clearing House’s Board maintains oversight of the outsourcing arrangements. Together with the VMP, the Outsourcing Policy is intended to document how the Clearing House assesses the risks of outsourcing certain functions. The Policy is not expected to represent a change in the Clearing House’s current practices, but rather to more clearly document those practices in a Clearing House level policy.

The Outsourcing Policy would include an introduction section which describes the differences between outsourcing and purchasing services, the former being the Clearing House’s use of a service provider to perform an ongoing activity that would usually be performed by the Clearing House and which often involves transferring or sharing related non-public proprietary information, and the latter being the Clearing House’s purchases of services, goods and facilities and which would typically not include any transfer of non-public proprietary information.

The Outsourcing Policy would also differentiate the Clearing House’s outsourcing practices and purchasing arrangements in respect of third-party providers, which would be managed

through the VMP, from outsourcing through its affiliates, which would typically have a lower risk profile for the Clearing House because such affiliates tend to be regulated entities with the same or similar systems, risk appetites, standards and processes, among other commonalities, as the Clearing House.

The Policy would set out the Clearing House’s overall objectives when considering outsourcing.

The Policy would include a discussion of outsourcing to third parties and outsourcing to the Clearing House’s affiliates. As mentioned, outsourcing to third parties is covered under the VMP, which covers due diligence, risk assessment, suitability, and performance management, among other topics. Outsourcing to affiliates of the Clearing House would follow the same process and standards as under the VMP; however, assessment would be performed by ICE Clear Europe’s senior management rather than the Clearing House’s Vendor Management Office. In all cases, the Clearing House would look to ensure that all service provider related incidents (such as service interruptions) are recorded and monitored and escalated to the Clearing House’s senior management in a consistent manner.

The Policy would provide the Clearing House would consider in its assessment of service providers that there can be lower risk in outsourcing functions to third parties that are also regulated or authorized. The Clearing House would consider in its assessment of a service provider how the service provider’s jurisdiction impacts the risks associated with outsourcing functions to that service providers.

ICE Clear Europe proposes to include in the Policy that it looks to manage any potential or actual conflicts of interest resulting from its outsourcing arrangements, particularly in respect of outsourcing arrangements it has with its affiliates.

Additionally, ICE Clear Europe proposes to include in the Policy that it looks to reserve independent audit rights to check compliance with legal and regulatory requirements and policies in its outsourcing agreements with third party and affiliate service providers, as required.

ICE Clear Europe also proposes to include in the Policy information about its cloud-based outsourcing arrangements. Outsourcing to the cloud is generally covered under the existing VMP. Relevant ICE Clear Europe and ICE Group policies, such as the Corporate Information Security Policy would also be considered when

<sup>32</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules and the Outsourcing Policy.